

CLEARY GOTTlieb STEEN & HAMILTON LLP

ONE LIBERTY PLAZA  
NEW YORK, NY 10006-1470  
(212) 225-2000  
FACSIMILE (212) 225-3999  
WWW.CLEARYGOTTlieb.COM

WASHINGTON, DC • PARIS • BRUSSELS  
LONDON • MOSCOW • FRANKFURT • COLOGNE  
ROME • MILAN • HONG KONG • TOKYO

Writer's Direct Dial (212) 225-2840  
E-Mail: lfriedman@CGSH.com

ROGER W. THOMAS  
MARK A. WALKER  
LESLIE B. SAMUELS  
ALLAN G. SPERLING  
MAX GITTER  
EVAN A. DAVIS  
LAURENT ALPERT  
VICTOR I. LEWKOW  
LESLIE N. SILVERMAN  
ROBERT L. TORTORELLO  
A. RICHARD SUSKO  
STEPHEN H. SHALEN  
LEE C. BUCHHEIT  
JAMES M. PEASLEE  
THOMAS J. WOLONEY  
EDWARD O. KLEINBARD  
JONATHAN I. BLACKMAN  
WILLIAM F. GORIN  
MICHAEL L. RYAN  
ROBERT P. DAVIS  
YARON Z. REICH  
RICHARD S. LINCER  
JAIME A. EL KOURY  
STEVEN G. HOROWITZ  
ANDREA G. PODOLSKY  
STEVEN M. LOEB  
DANIEL S. STERNBERG  
DONALD A. STERN  
CRAIG B. BROD  
SHELDON H. ALSTER  
WANDA J. OLSON  
MITCHELL A. LOWENTHAL  
DEBORAH M. BUELL  
EDWARD J. ROSEN

LAWRENCE B. FRIEDMAN  
NICOLAS GRABAR  
CHRISTOPHER E. AUSTIN  
SETH GROSSHANDLER  
JANET L. FISHER  
DAVID L. SUGERMAN  
HOWARD S. ZELBO  
DAVID E. BRODSKY  
ARTHUR H. KOHN  
ANA DEMEL  
RAYMOND B. CHECK  
RICHARD J. COOPER  
JEFFREY S. LEWIS  
PAUL J. SHIM  
YVETTE P. TEOFAN  
STEVEN L. WILNER  
ERIKA W. NIJENHUIS  
LINDSEE P. GRANFIELD  
DAVID C. LOPEZ  
CARMEN A. CORRALES  
JAMES L. BROMLEY  
RICARDO A. ANZALDUA-MONTOLYA  
PAUL E. GLOTZER  
MICHAEL A. GERSTENZANG  
LEWIS J. LIMAN  
NEIL Q. WHORISKEY  
JORGE U. JUANTORENA  
MICHAEL D. WEINBERGER  
DAVID LEINWAND  
JEFFREY A. ROSENTHAL  
ETHAN A. KLINGSBERG  
MICHAEL D. DAYAN  
CARMINE D. BOCCUZZI, JR.  
JEFFREY D. KARPFF

KIMBERLY BROWN BLACKLOW  
ROBERT J. RAYMOND  
DAVID I. GOTTlieb  
JENNIFER L. KROMAN  
SANDRA L. FLOW  
FRANCISCO L. CESTERO  
DANA G. FLEISCHMAN  
FRANCESCA LAVIN  
SANG JIN HAN  
WILLIAM L. MCRAE  
JASON FACTOR  
MARGARET E. STOWERS  
LISA M. SCHWENTZER  
KRISTOPHER HESS  
GAMAL M. ABDOUALI  
RESIDENT PARTNERS  
SANDRA H. ROCKS  
ELLEN M. CREEDE  
S. DOUGLAS BORISKY  
JUDITH KASSEL  
DAVID E. WEBB  
DEBORAH E. KURTZBERG  
PENELOPE L. CHRISTOPHOUD  
BOAZ S. MORAG  
MARY E. ALCOCK  
GABRIEL J. MESA  
DAVID H. HERRINGTON  
MARK A. ADAMS  
HEIDE H. ILGENFRITZ  
GEOFFREY B. GOLDMAN  
DAVID S. BERG  
RESIDENT COUNSEL

January 12, 2006

Magistrate Judge Kiyo A. Matsumoto  
United States Magistrate Judge  
United States Courthouse  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: Weiss v. National Westminster Bank PLC, 05-CV-4622 (CPS) (KAM)

Dear Magistrate Judge Matsumoto:

This firm is counsel to defendant National Westminster Bank Plc ("NatWest") in the above-referenced lawsuit, which NatWest originally moved to dismiss in papers that it filed on December 19, 2005. At the Initial Conference Hearing on December 21, 2005, plaintiffs announced their intention to file an amended complaint, which they did on January 6, 2006. Your Honor granted NatWest's request to hold discovery in abeyance pending Judge Sifton's ruling on NatWest's original dismissal motion, and instructed NatWest to inform plaintiffs and the Court by today whether NatWest would seek dismissal of the amended complaint, and if so, whether discovery should continue to be stayed while such a motion is pending.

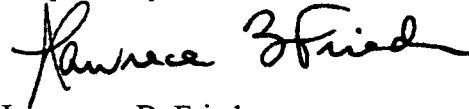
NatWest will promptly move for an order dismissing the Amended Complaint. Pursuant to the parties' stipulation, which Judge Sifton approved on December 22, 2005, NatWest will file its motion papers on January 26, plaintiffs will respond on February 9, and NatWest will reply on February 17.

NatWest opposes the conduct of any discovery before Judge Sifton rules on NatWest's renewed dismissal motion. All of the reasons NatWest previously cited for deferring discovery in its December 19, 2005 letter to the Court, a copy of which is enclosed, continue to

Magistrate Judge Kiyo A. Matsumoto, p. 2

apply, now with even greater force. First, plaintiffs' repleading still falls far short of the requirements of the statutes they purport to invoke. Second, NatWest's motion will be fully briefed 36 days from today. Third, the burden of proceeding with discovery would be as great for NatWest as it was when the Court first ruled that discovery should be deferred. Fourth, plaintiffs will suffer no prejudice, especially after having waited more than two years to file their suit, and because they seek no injunctive or other time-critical relief. Finally, the parties have agreed to, and will present for the Court's approval, a bilateral document and data preservation order.

Respectfully,

A handwritten signature in black ink, appearing to read "Lawrence B. Friedman", written in a cursive style.

Lawrence B. Friedman

Enclosure

cc: All Counsel

CLEARY GOTTlieb STEEN & HAMILTON LLP

ONE LIBERTY PLAZA  
NEW YORK, NY 10006-1470

(212) 225-2000

FACSIMILE (212) 225-3999

WWW.CLEARYGOTTlieb.COM

WASHINGTON, DC • PARIS • BRUSSELS  
LONDON • MOSCOW • FRANKFURT • COLOGNE  
ROME • MILAN • HONG KONG • TOKYO

Writer's Direct Dial: (212) 225-2840  
E-Mail: lfriedman@CGSH.com

ROGER W. THOMAS  
MARK A. WALKER  
LESUE B. SAMUELS  
ALLAN G. SPERLING  
MAX GITTER  
EVAN A. DAVIS  
LAURENT ALPERT  
BARRY M. FOX  
VICTOR I. LEWKOW  
LESUE N. SILVERMAN  
ROBERT L. TORTORIELLO  
A. RICHARD SUSKO  
STEPHEN H. SHALEN  
LEE C. BUCHHEIT  
JAMES M. PEASLEE  
THOMAS J. MOLONEY  
EDWARD D. KLEINBARD  
JONATHAN I. BLACKMAN  
WILLIAM F. GORIN  
MICHAEL L. RYAN  
ROBERT P. DAVIS  
YARON Z. REICH  
RICHARD S. LINCER  
JAIME A. EL KOURY  
STEVEN G. HORDWITZ  
ANDREA G. PODOLSKY  
STEVEN M. LOEB  
DANIEL S. STERNBERG  
DONALD A. STERN  
CRAIG B. BROD  
SHELDON H. ALSTER  
WANDA J. OLSON  
MITCHELL A. LOWENTHAL  
DEBORA H. BUELL

EDWARD J. ROSEN  
LAWRENCE B. FRIEDMAN  
NICOLAS GRABAR  
CHRISTOPHER E. AUSTIN  
SETH GROSSHANDLER  
JANET L. FISHER  
DAVID L. SUGERMAN  
HOWARD S. ZELBO  
DAVID E. BRODSKY  
ARTHUR H. KOHN  
ANA DEMEL  
RAYMOND B. CHECK  
RICHARD J. COOPER  
JEFFREY S. LEWIS  
PAUL J. SHIM  
YVETTE P. TEOFAN  
STEVEN L. WILNER  
ERIKA W. NIJENHUIS  
LINDSEY P. GRANFIELD  
DAVID C. LOPEZ  
CARMEN A. CORRALES  
JAMES L. BROMLEY  
RICARDO A. ANZALDUA-MONTOYA  
PAUL E. GLOTZER  
MICHAEL A. GERSTENZANG  
LEWIS J. LIMAN  
NEIL Q. WHORISKEY  
JORGE U. JUANTORENA  
MICHAEL D. WEINBERGER  
DAVID LEINWAND  
JEFFREY A. ROSENTHAL  
ETHAN A. KLINGSBERG  
MICHAEL D. DAYAN  
CARMINE D. BOCCUZZI, JR.

JEFFREY D. KARPFF  
KIMBERLY BROWN BLACKLOW  
ROBERT J. RAYMOND  
DAVID I. GOTTlieb  
SUNG K. KANG  
JENNIFER L. KROMAN  
SANDRA L. FLOW  
FRANCISCO L. CESTERO  
DANA G. FLEISCHMAN  
FRANCESCA LAVIN  
SANG JIN HAN  
WILLIAM L. MCRAE  
JASON FACTOR  
RESIDENT PARTNERS  
  
SANDRA M. ROCKS  
ELLEN M. CREEDE  
S. DOUGLAS BORISKY  
JUDITH KASSEL  
DAVID E. WEBB  
DEBORAH E. KURTZBERG  
PENELOPE L. CHRISTOPHOU  
BOAZ S. MORAG  
MAURO PRENUTICO  
MARY E. ALCOCK  
GABRIEL J. MESA  
DAVID H. HERRINGTON  
MARK A. ADAMS  
HEIDE H. ILGENFRITZ  
GEOFFREY B. GOLDMAN  
DAVID S. BERG  
RESIDENT COUNSEL

December 19, 2005

BY HAND

Magistrate Judge Kiyo A. Matsumoto  
United States Magistrate Judge  
United States Courthouse  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: Weiss v. National Westminster Bank PLC, 05-CV-4622 (CPS)

Dear Magistrate Judge Matsumoto:

This firm is counsel to defendant National Westminster Bank Plc ("NatWest") in the above-referenced lawsuit, which is scheduled for an initial conference before Your Honor on Wednesday, December 21, 2005, at 10:30 a.m. We have consulted with plaintiffs' counsel on all of the subjects identified in Your Honor's October 3 Order Governing Initial Conference, and we look forward to reviewing those subjects with Your Honor later this week.

As we have informed plaintiffs' counsel, we intend at Wednesday's conference to propose that discovery not proceed until Judge Sifton rules on NatWest's pending dispositive motion to dismiss the complaint in its entirety, which NatWest served and filed earlier today, and which should be fully briefed by the end of January. I am enclosing a copy of NatWest's dismissal brief for Your Honor's information.

Your Honor has the discretion to defer discovery where, as here, a dispositive dismissal motion is pending, that motion is well grounded, any delay will be relatively short, the burden of proceeding with discovery will be substantial, and the opposing party will not be prejudiced by such a ruling. Spencer Trask Software & Info. Services, LLC v. RPost Int'l Ltd., 206 F.R.D. 367, 368 (S.D.N.Y. 2002); Johnson v. N.Y. Univ. School of Educ., 205 F.R.D. 433,

Magistrate Judge Kiyo A. Matsumoto, p. 2

434 (S.D.N.Y. 2002). Here, all of these factors militate strongly in favor of not proceeding with discovery pending Judge Sifton's dismissal ruling.

First, NatWest's motion is highly meritorious, because the Complaint falls far short of the requirements of the statutes Plaintiffs purport to invoke, the civil remedy provisions of the Antiterrorism Act, 18 U.S.C. §§ 2333(a) et seq. Plaintiffs include a victim of a 2003 suicide bomber attack in Israel, for which responsibility was claimed by HAMAS, and members of his family. Plaintiffs seek to hold NatWest liable for treble damages for their injuries, based solely on the fact that a NatWest branch in London maintains deposit accounts for a British charity known as Interpal, which the U.S. government designated as a fund raiser for HAMAS, but only after the bombing at issue. As Plaintiffs' complaint omits, but as is reflected in the documents it selectively quotes, in official rulings, NatWest's own home government in Britain has twice investigated Interpal, and has twice concluded that Interpal has not been shown to be affiliated with HAMAS, once before and again after the U.S. government concluded otherwise.

As the enclosed brief explains, Plaintiffs' allegations are not even close to what is needed to state a claim. Among other defects, because Plaintiffs accuse NatWest only of providing routine deposit account services to Interpal, they cannot meet the statutory requirements of showing that NatWest engaged in predicate criminal conduct and "knowingly provide[d] material support or resources to a foreign terrorist organization," or "unlawfully and willfully provide[d] or collect[ed] funds with the intention that such funds be used, or with the knowledge that such funds are to be used, in full or in part, to carry out" a terrorist act. 18 U.S.C. §§ 2339B, 2339C. Further, Plaintiffs' attempt to allege general aiding and abetting liability under 18 U.S.C. §§ 2333(a) – which does not even exist as a matter of law – is defeated by their failure to plead the elements for such a finding under either federal criminal law, as is required, because civil liability under the statute must be based upon a predicate criminal violation, or even under applicable tort law. Finally, in any event, Plaintiffs' allegations are fatally flawed because they have not pleaded (and cannot plead) facts sufficient to establish any proximate causal link between NatWest's provision of routine deposit account services to Interpal and any injury Plaintiffs sustained due to a HAMAS suicide bomber attack in Israel.

Second, any delay occasioned by deferring discovery should be relatively short. We expect that briefing on NatWest's motion can be completed by the end of January, unless Plaintiffs require additional time to respond.

Third, the burden of proceeding with discovery will be great. NatWest does not currently conduct any banking business in the United States. Compliance with initial disclosure requirements, and the extensive document and deposition requests Plaintiffs have indicated they will make, will require extensive searches for documents in England, and depositions there as well.

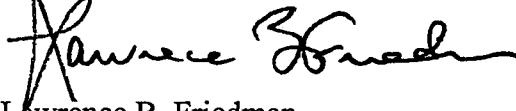
Fourth, Plaintiffs will not be prejudiced by deferring discovery until after a ruling on NatWest's dismissal motion. Plaintiffs waited more than two years after they sustained their injuries to file this lawsuit. They seek no injunctive or other time-critical relief. Further,

Magistrate Judge Kiyo A. Matsumoto, p. 3

NatWest's internal counsel has already taken appropriate steps to ensure that all documents relating to the Interpal deposit accounts will be preserved for production in this lawsuit, should that be necessary.

Accordingly, we will respectfully request at Wednesday's conference that discovery in this matter not proceed until after Judge Sifton rules on NatWest's dismissal motion.

Respectfully,

A handwritten signature in black ink, appearing to read "Lawrence B. Friedman". The signature is fluid and cursive, with the first name "Lawrence" being more prominent than the last name "Friedman".

Lawrence B. Friedman

Enclosure

cc: All Counsel